

decisions are being made in unaccountable fashion by bureaucrats, then moving it to even less accountable judges is not a solution to the problem.

But the fact of the matter is that they are wrong about the bureaucrats because of the CRA, because of the Administrative Procedures Act, because of the appropriations process, because of congressional oversight, and because of executive appointment to the control of these Agencies. It just ain't so, but it is a lie that is repeated and repeated and repeated and begins to be echoed by the Justices of the captured Court.

To sum up, by all appearances, a Koch operation-funded legal theory supported by Koch operation-funded amici is about to be deployed by Koch operation-funded lawyers to convince Koch operation-funded Justices to achieve a longstanding goal of Koch industries: the ability to pollute more easily and more cheaply.

To twist American law through those techniques for that purpose is a deeply degraded thing. It would be a tragedy for the American people. But do you know what? It is the scheme in a nutshell. It is why all the effort was put together—the hundreds of millions of dollars were spent—to capture and control the U.S. Supreme Court for the benefit of a small cabal of creepy billionaires.

To be continued.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### BORDER SECURITY

Mr. LEE. Madam President, we find ourselves in a situation in which every State in America is a border State.

Now, it didn't used to be this way, and as one who has spent 2 years living along the U.S.-Mexico border, where I served as a missionary in my early twenties, I am familiar with border towns; I am familiar with what they go through. And I can tell you from that experience, where I lived and worked among the poorest of the poor along the border, among a lot of people who were recent immigrants themselves—some documented, others not documented—I can tell you that no one fears uncontrolled waves of illegal immigration more than people living along the border, including and especially those who are recent immigrants. It is, after all, their jobs, their neighborhoods, their children's schools, their communities that are placed at risk every time there is an uncontrolled wave of illegal immigration.

Now, since I lived in border communities in the early 1990s in South Texas, things have gotten a lot worse, and they have gotten exponentially

worse over the last 3 years. Things got so bad in the last month that we were setting all kinds of the wrong records. Day after day, we were exceeding the maximum number of daily migrant encounters our Border Patrol had ever observed in the history of our country. These are not the kinds of records that we want to break nor are they the kinds of records that, when broken, are without consequence—very real, very tangible consequences—to the American people, starting, of course, with those living in border communities, but extending through all 50 States as all 50 States are seeing, feeling, experiencing, and paying the cost—the high cost—of this wave of lawlessness. It is not a victimless crime.

Just as the drug cartels are being enriched to the tune of many tens of billions of dollars a year—smuggling their human traffic across international boundaries—and just as the human traffic that they carry, it is bringing in enough fentanyl that it killed over 100,000 Americans last year and enough fentanyl that, if distributed to enough people, would kill every American many times over.

When that many people—we are talking somewhere in the range of 8 to 10 million people; maybe it is even more—enter a country unlawfully in such a short period of time—in just 3 short years—there are all sorts of consequences to that. Among them happens to be the erosion of the rule of law. When that many people come into the country and their first experience with this country—their very entry into this country's borders—is itself an unlawful act, it doesn't bode well for the rule of law in America. It doesn't send a positive signal for what kind of country we are becoming.

We have experienced that in every one of our States. We have seen crimes committed that should never have been committed because they were committed by people who should never have been in this country to begin with.

All of this is before we even get to the question of who exactly is coming across our border. Our Border Patrol agents have observed all kinds of things in recent months and years but especially in the last few months. People are not just coming from Central America anymore—and not just coming from Central and South America—but from all over the world, from all kinds of countries that you ordinarily wouldn't expect to be represented in large numbers crossing illegally across our southern border into the United States—countries like Afghanistan, like Syria, like China, and many, many others. We have seen many hundreds coming across who are on the Terrorist Watchlist—known terrorists. We have seen a whole lot of others—many hundreds by some measures, thousands who have likely entered—who are from countries, and otherwise entering under circumstances, that are cause for alarm.

Yet this is going on with the acquiescence—some would say with the blessing—of a Presidential administration which appears to have ordained this very result—invited it and effectively guaranteed it.

This has been really good for the drug cartels, which have been enriched to the tune of tens of billions of dollars every single year that Joe Biden has been in office—every year. But it has been really bad for the American people, especially America's poor and middle class and anyone living on or near a border or in any community where people have been displaced or where people have been ravaged by the effects of criminal activity carried out by those who should never have been in this country to begin with.

The problem got so bad over the last few months that the State of Texas decided that it had to act. You see, Texas has a really long international border at the southern end of its State, and along that border, the State of Texas sought areas that were being traversed constantly—traversed constantly and yet, perhaps, were not patrolled as well as they would have liked. These were places where there were no adequate barriers, natural or otherwise, that could keep people out but that the State of Texas knew could be protected if barriers could be placed there. So the State of Texas started putting up barriers along some of these stretches of border and, in particular, along a particular 27-mile stretch of border.

The Biden administration struggled to process these many thousands of illegal aliens crossing our border every single day, with all kinds of things to do to try to stop this or, at least, act like they are trying to stop it or, at least, process them or whatever it is that they have been ordered to do that day. Apparently, this was too much for the Biden administration, because President Biden directed the Department of Homeland Security and the personnel along the border in Texas to go in and start taking down these barriers. They were putting up ladders across some of the barriers, cutting holes in other barriers, cutting concertina wire in other circumstances.

So the State of Texas said: Good heavens. That doesn't seem right. It doesn't seem right that, you know, we are besieged by these people who want to break our laws in order to enter our country.

The President is the chief executive officer of the Federal Government, and it is the Federal Government that is responsible for protecting us from invasion. Remember, an invasion can occur either by an organized, armed military force or it can be a nonorganized, non-uniformed, nonmilitary force that is just entering another country en masse without authorization. That is the Federal Government's responsibility. It is one of the chief responsibilities, one of the most important responsibilities.

But because the Federal Government wasn't carrying out that responsibility

and because the State of Texas saw a particular 27-mile stretch of border where Texas could make a difference by putting up some barriers, they put it there. But that was not OK with the Biden administration. They had to go take it down. Who knows how many additional illegal immigrants came in as a result of the personnel who had to be deployed to start taking down these barriers and cutting the wire, but they did it.

Now, the State of Texas stepped back for a minute and said: You know, it is really unfortunate that that is what the Biden administration wants to do with its scarce resources. It is really unfortunate that they want to make the State of Texas less safe and, with it, the rest of the country.

But it also doesn't really seem—I don't know—constitutional. You know, there are a couple of provisions in the Constitution that deal specifically with protecting the country against an invasion. One of them can be found in article IV, section 4 of the Constitution, which says, when a State is being invaded—when it is under siege in some way—it should be able to appeal to the Federal Government for help in resisting that. Well, when Texas asked for help, it got quite the opposite.

There is another provision—article I, section 10, clause 3. That provision says, in essence, after telling the States that there are a bunch of things that they cannot do—States are not allowed to wage war, for example; States are not allowed to enter into an international compact with a foreign country and do certain things like that that are akin to what the Federal Government is uniquely empowered to do—that there is an exception at the end, and it is an exception that applies when a State is being invaded; that States have the power to do that.

So, perhaps informed by these and other provisions of the Constitution, the State of Texas filed suit in the U.S. district court in Texas, trying to seek an injunction. That is an order telling the Department of Homeland Security: Look, you can't mess with Texas. You can't mess with Texas's barriers. Don't take them down.

After some initial back-and-forth litigation in the U.S. district court, the matter went to the U.S. Court of Appeals for the Fifth Circuit, which includes the State of Texas. On December 19, 2023, just a little over a month ago, the Fifth Circuit issued an injunction—a preliminary injunction—saying that, while this litigation is pending—while we figure out once and for all whether, to what extent, and under what circumstances the Biden administration may or may not choose to go in and take down these barriers put up by the State of Texas—Homeland Security and the Biden administration just can't do that. Don't do it for now. It doesn't mean don't do it forever. It just means don't do it for now while this litigation is pending, while the courts are ironing this out.

Well, that remained in effect for just over a month. Then this last Monday—just a couple of days ago—the Supreme Court of the United States issued a one-sentence order vacating that preliminary injunction.

What does that mean? Well, that order doesn't do anything. It doesn't tell the State of Texas it can't put barriers in place. It doesn't tell the State of Texas it has to take it down. It doesn't require any action on the part of the State of Texas. All it does is it gets rid of the order that previously was in place telling the Department of Homeland Security and others within the Biden administration that they could not do anything to mess with the barriers put in place by Texas.

Meanwhile, the case is set to be argued before the U.S. Court of Appeals for the Fifth Circuit on February 7. At that argument, the court will consider—the appellate court will consider the merits of the argument and, eventually, make a ruling.

I hope, I expect, I would imagine that in a case of this import and urgency, the Court of Appeals for the Fifth Circuit will probably try to issue something within a few weeks; I would hope not much longer than that, maybe a month or 2. And at that point, if the State of Texas prevails, then there will be a permanent injunction and order telling the Biden administration it can't take that down. I am sure whoever loses will take that to the Supreme Court. That will take some additional time.

But the point is this: Through all this litigation, we have seen one consistent theme through all stages of litigation. We have got the Biden administration going into court, making arguments like the following: pointing to provisions in title 8 of the United States Code dealing with immigration issues, provisions guaranteeing that the Border Patrol must have access to areas 25 miles inland from the border so that they can do their work; so that they can enforce the border; so they can do their jobs.

This is one of the primary arguments they were making before the courts is that this barbed wire or these barriers put in place by the State of Texas interfere with our ability as Border Patrol officers to access the land and to do our jobs.

What is their job? Well, to stop the illegal immigrants from coming across.

So how, exactly, does this 27-mile stretch where these barriers have been put in place by the State of Texas, how exactly does that hinder the Border Patrol from doing the Border Patrol's job?

Call me crazy, but I strongly suspect that if we could bring a handful of the Border Patrol agents up, they would tell us that quite the opposite is true; that the placement of these particular barriers probably makes their job easier.

But do you know whose job this makes harder? It makes the job of the

drug cartel, the human smuggler, the sex worker trafficker—remembering that a very substantial portion—estimates vary as to how many, but according to some, a majority of the women and girls trafficked through this network are subjected to sexual assault, many of them used as sex slaves, many of them forced to continue in that capacity even after they get into the United States, where they are working now as indentured servants, yes.

Just a few weeks ago, I went to the border, down in the McAllen sector—not too far from the area where I lived and worked for 2 years as a missionary back in the early 1990s—and Border Patrol officers there informed me that for the first time—for the first time—since the adoption of the 13th Amendment, which got rid of things like slavery and indentured servitude, we have actually got a sizable number of indentured servants in this country—people smuggled in who haven't been able to afford the \$4-, \$5-, \$6-, \$7,000, sometimes more, depending on what country they are from and how many risk factors there are. If they can't afford the passage from the cartels, they have got to work it off. So many of them remain as indentured servants. And for many of the girls and women in particular, they remain in sex slavery.

So why exactly is the Biden administration so concerned with all of this happening, with the barrier that could make the job of the Border Patrol more effective, that could lead to the apprehension of more individuals—knowing full well that by breaking up these barriers, all they are doing, the only people whose lives they are really making easier are those of the drug cartels, the people who are subjecting all these people to these horrible, deplorable conditions, and bringing in enough fentanyl into the United States every year to kill every American multiple times. Why are they so concerned about that? And on what planet—on what planet—can you maintain that it is making the job of the Border Patrol harder because you are making it harder for people to enter our country unlawfully? It really defies reason, wisdom, and logic.

It is against this backdrop that we find ourselves today in a position in which we have got a war going on half a world away, a conflict involving Russia and Ukraine. It is a tragic conflict. You got a bad guy, Vladimir Putin, who is messing with Ukraine yet again. Without getting into all of the gory details—because this is not the focus of my speech today of how that war started, why it has been dragging on so long—there is renewed push to send more U.S. assistance to Ukraine, to send some additional aid to Israel. The votes aren't there to get it passed through both Houses of Congress. So for that reason, they have married up the project of getting more money to Ukraine—you know, it is a \$106 billion aid package. We still don't know exactly who would get how much; we still

have yet to see bill text on any of that. But we are told that the majority of that money would go to Ukraine. About \$12 billion of it would go to fund Ukraine's ongoing civilian government, pay the salaries of its civil servants, and pensions, things like that. A lot of it involves direct military assistance. Overall, we expect about \$62 billion or so of the \$106 billion would go to Ukraine.

The votes aren't there to get it, so some Members of Congress, some Members of the Senate, including both the Democratic leader and the Republican leader, have decided to try a somewhat innovative approach: combine the supplemental aid package with a border security package; marry them up, and then maybe you can get enough votes for both of them.

I understand why they have come to the general conclusion. I understand that sometimes you have to pair one thing up with another thing in order to build a consensus necessary to get either passed. It is a common technique used, and I understand it. It is understandable, certainly, why they would want to use it here.

But I believe there are some real problems with the manner in which we are going about that particular effort, starting with the fact that it presupposes on the border security front that the reason for the current border surge, for the absolute humanitarian crisis unfolding along our southern border over the last 3 years and over the last few months in particular, is somehow the product of inadequate legislative authority on the part of the President of the United States and those answerable to him and charged with enforcing Federal law.

It is not. It is not for want of adequate legislative authority and the executive officials charged with administering those laws; it is not for lack of any legislative authority on their part that we have this border security crisis.

The exact same statutes were in place when Donald Trump was President of the United States. Donald Trump faced, as we all recall, some rather significant border surges as the cartels were pushing people increasingly into this country and making a lot of money smuggling them into the country. He utilized existing law to bring that crisis under control. Those same laws are in effect today.

President Biden could, should, and would be able to fix this if only he had the will, the willingness, to do it. In fact, if only he didn't have this defiant attitude that convinces him that he would rather help the drug cartels and poor middle-class Americans living in border communities and everywhere else in the United States. Shame on him for not using those.

Now, the skeptic will immediately say: Oh, yes, yes. But that was title 42 authority. Title 42 authority kicked in only because of the COVID pandemic in 2020.

That is not really true. Look, he did use title 42 authority, and that was pegged to the pandemic. But the crisis was mostly resolved. He was bringing it to a close by the time anyone had even heard the cursed word "COVID" or "coronavirus" in 2020. It was already well on its way to being a thing of the past, all without title 42. Sure, title 42 didn't hurt, and it helped close the gap even further to the point where we had effectively ended illegal border crossings in 2020. We were well on our way in that direction.

The biggest single step with that was not, in fact, title 42; it was the "Remain in Mexico" program, also known as the Migrant Protection Protocols—an international agreement whereby the United States effectively entered into a safe third-country agreement with Mexico. If you crossed into our southern border—into our country across our southern border by land—and thereafter claimed asylum, you were asked where you were from, and you were returned back to Mexico because you were deemed eligible to apply for asylum in the first safe country that you crossed into, or at least the country through which you were crossing before entering the United States. So they were returned to Mexico. Asylum applicants applying for asylum, appearing, crossing over land, were told that they would have to wait while their asylum application remained pending in Mexico.

This worked like a dream. This dramatically reduced illegal border crossings. It took a significant amount of time by President Trump, by Secretary of State Mike Pompeo, by various Department of Homeland Security officials, and a number of other members of the President's team in order to negotiate the terms of the "Remain in Mexico" program. And once in place, it worked like a charm. It worked really, really well.

You see, because this is where a lot of this migrant surge phenomenon comes from. We have laws in place that offer asylum. Asylum is something that we offer to people who are wanting or needing to come to the United States because they have been targeted for some type of persecution based on their status. You know, we are a nation of immigrants. We always have been. I hope we always will be a nation that welcomes immigrants. And we do. We welcome them a lot. We want them to come the legal way.

One of the ways in which we welcome immigrants is through our asylum laws. Now, you do have to satisfy certain statutory criteria in order to even be deemed eligible for asylum.

Over the last few years, the vast majority of the people who cross our borders without documentation and thereafter apply for asylum are, ultimately, deemed ineligible for it. I have heard numbers ranging from about 90 percent to 98 or 99 percent. I don't know where the actual numbers shake out. I think they vary from time to time. But we

are talking about at least 9 out of 10—often more than that—who are not eligible.

So when you have people come in and apply for asylum, the way that it is supposed to work is they are supposed to be detained until such time as their asylum claims can be adjudicated by an immigration judge. They can be found either eligible or not eligible for asylum. If they are eligible: Welcome to America. You are now a refugee. Come on in. And we welcome them.

But if they are not, they are supposed to be removed—removed—sent outside the United States; typically, back to their country of origin.

The problem has been that we have somehow gotten confused. We have gotten confused over the fact that we are, in fact, supposed to detain them until such time as their asylum application could be adjudicated.

We have got it so confused that, over the years, it has morphed into this monster that the drafters of the asylum laws who put it in place would scarcely recognize. It has morphed into this weird thing where they come in, they say: I want asylum.

And today they are told: OK. Fill out the paperwork. Tell us why you want asylum.

Then they are told: OK. We are going to hold you for a few days.

Then they are told: Oh, our bed space is all full so we can't detain you any longer.

Then they are told not that they are going to be sent back to their own country, not that they are going to be sent back to Mexico, as they would have been, as they were being under the Trump administration, under the migrant protection protocols, also known as "Remain in Mexico," but here is a plane ticket. We will fly you anywhere you want in the United States, on us.

And unlike, amazingly, American citizens, all of whom have to produce a driver's license in order to board a plane, you don't have to worry about that. We don't really know who you are, whether you are who you say you are. But, yeah, go ahead. Here is the plane ticket. We will make sure you get on that plane, and we will fly you anywhere you want. And as for your asylum application, don't worry about that. We just humbly, politely, ask that—at some point, you are going to have an immigration hearing. We ask you to show up to it.

And, by the way, if you enter the United States without documentation right now and apply for asylum and get one of these plane tickets and they tell you, "We hope you will show up for your asylum hearing before the immigration judge someday," guess when that will occur? A week? No, longer. Six weeks? No, longer. Six months? Longer. Now it is in the mid-2030s. We are talking a decade or more away from today. So have fun. Enjoy the plane ticket on us. Go to wherever you want in the United States.

Oh, by the way, after 180 days, we will even send you a work permit allowing you to work while you are here, even though you are without documentation. We will fix that. We will just make you documented just because you have said you would like to apply for asylum.

This is insane. Of course, we have had 10 million people come into this country illegally. When we run it like that, who wouldn't want to come to America? It is the greatest country on Earth. But the problem is, this is really dangerous. It is dangerous for those being human trafficked. It is dangerous for all the people in America who are being killed—100,000 last year killed by the fentanyl these guys are bringing across. It is dangerous for our communities. It is dangerous for people who are losing their jobs because their jobs are being replaced by people who shouldn't be here to begin with. It is dangerous for those who are the victims of crimes that those people who shouldn't be here in the first place commit while they are here—like 10 million people.

Among 10 million people, you are going to have some bad ones. I am sure you will have a lot of good people, too, who are just trying to get by, just trying to make a living and not be in a country where they feel they can't get ahead, but it doesn't give them a right to be here. Our asylum laws sure don't.

I will tell you why. It is because our asylum laws do not confer an individual right on anyone to asylum—no. This is a discretionary authority given to the Secretary of Homeland Security that he may—he may—grant asylum to those people who fit the criteria for asylum. He may.

Remember, you are supposed to keep them locked up. You are supposed to detain them until such time as you can adjudicate the legitimacy of their asylum claims in an immigration hearing, and then you are supposed to deport them if they are not eligible and let them in only if they are.

But, instead, we run out of bed space, processing capacity, and we say: Ah, forget it. Here you go. Come on in. We will send you a work permit in 180 days.

So, of course, we are going to have this problem.

Then, somehow, that wasn't even enough by itself. I don't know exactly why because the asylum track was working real well for the Biden administration to invite more and more drug cartel activity, enriching the drug cartels to the tune of tens of billions of dollars a year. But maybe it wasn't quite enough for the big guy. Maybe he wanted more to come in.

So what did he do? Well, he looked for other loopholes to exploit in our immigration laws. So he turned to the parole provisions. Now, parole, when we use it in the immigration context, is typically not talking about what you think about when somebody is out on parole from prison.

This is immigration parole. It involves a very specific type of relief that the President and those working under him in the area of homeland security may grant. Again, there is no right to parole any more than there is any right on the part of any individual to asylum. It is a discretionary grant of authority.

But it is a narrow one. It is one pursuant to which the President or those answerable to him in the homeland security arena may allow someone in for two possible purposes: either for a discrete, distinct, individualized humanitarian need—now, the classic example of this, the longtime understanding of what that encompasses, it would involve someone outside the United States who doesn't have a visa to come into the United States but whose grandmother is dying or has just died, and he needs to attend the funeral. Parole authority can be granted for humanitarian purposes in that circumstance, with the understanding that he will leave in a few days after the funeral is over.

It could maybe be somebody outside the United States who doesn't have a visa here who has a rare medical condition, treatment for which is available exclusively in the United States. He needs to come in for a few days to get that procedure, be treated, with the understanding he will leave soon after getting the treatment.

The other prong of parole, immigration parole, exists in the public need, the public purpose arena, where, for example, someone speaks an obscure language not typically spoken in the United States and somebody is on trial in a court somewhere; they need an interpreter, someone who can speak that very rare language. They can't find one in the United States. They want to bring an interpreter in from another country who can speak that language so the person can be afforded due process and a fair trial. That is the type of public need that can be filled with the parole authority loophole.

But it has always been understood, it has always been the law that parole is not to be granted en masse. It is to be granted on a case-by-case, individualized basis with individualized findings in all circumstances, nor is it supposed to be open-ended. Parole is not a visa. It is a temporary grant of permission to enter the country for a brief period of time, with the understanding that when that need is over, in a finite period of time, the person will leave.

So the Biden administration has now used parole—I believe, last year, last year alone, it was about 700,000 people, undocumented, who were brought into the United States specifically using this parole authority. Now, these were not individualized determinations. These were not 700,000 individual people saying: I have a specific need. My grandma is dying or I need a kidney transplant or whatever it was—or I speak this obscure language nobody else speaks, and I am going to provide

interpretation services in a court, and I need to get in so I can get out after doing the job. No. These were massive-scale grants of authority—of permission to enter the United States under the parole authority.

So it is against this backdrop that we have to get back to this supplemental aid package. The supplemental aid package promises, OK, let's make lemonade out of lemons. We have got a lemon in that the Ukraine aid can't pass by itself. So let's make lemonade out of it by getting those who want to make sure that we give lots of money to Ukraine—let's pair that up with votes from people who really want to make sure the border is secure.

It is really sad, if you think about it, that we are not all in that boat. I mean, look, people can reach different conclusions. Reasonable people can take a different conclusion as to whether, to what extent, in what way we are going to help Ukraine enforce Ukraine's border. That part is considered sort of optional in that it is not our border.

Our border shouldn't be optional. That is not an extracurricular activity for us. That is the core of what we are supposed to be doing. Article I, section 10, clause 3 and article IV, section 4 will make that clear, as will a number of other provisions of the Constitution and in Federal statute. This is not optional.

But getting back to that compromise: So the idea is to marry up those who really want border security—unfortunately, it is not all of us—with those who want to make sure that we get money to Ukraine so that Ukraine's border can be protected. It is against that backdrop that I have just been describing that we are faced with that set of issues.

So we are told that what we are going to do is negotiate our way into passing new border security statutes and that those statutes will then end the border security crisis created willfully by the Biden administration's vehement, defiant refusal to enforce the law.

Wait a minute. Why would we expect them to enforce a new law when they are not enforcing the old law? I am confused. Moreover, if we are going to negotiate this, doesn't that send the message to the rest of the country—the incorrect message—that if this project fails, that President Biden is somehow justified in not doing it because, oh, well, Congress didn't pass the law. I would have enforced the law. I haven't enforced the border for years, the whole 3 years I have been President of the United States, so I guess I can't enforce it now, but I would have under a new law, but I won't under existing law.

Why should we take that seriously? Heck, there are a lot of Americans who are looking at this, asking: Why we are willing to spend so much money on other countries and securing their borders but not our own? How can we look

those constituents in the eye, knowing full well that, so far, according to the Heritage Foundation's estimates, this war, our support of this war, of Ukraine since this war started, the \$113 billion that we have provided, more than any other country on Earth by far, \$113 billion of hard-earned American taxpayer dollars—that is real stuff. According to the Heritage Foundation, that amounts to about—it is over \$900 per American taxpayer on that conflict.

Even at the height of the multiple wars that we were facing in 2008, where we were fighting wars not through a proxy, not just by providing military aid, but we ourselves were fighting wars, in Iraq, in Afghanistan, and to a degree in Syria—even that year, at the height of that conflict, the cost per taxpayer was more in the range of \$700 or so.

But just so far, in the existence of this conflict, we have spent \$113 billion already on Ukraine. The American taxpayer is now being asked to spend another \$62 billion on Ukraine when we still haven't secured our own border. And it is against that backdrop that we are saying: OK, then we will negotiate into this new border security laws.

Now, look, I would imagine there are a few of us who wouldn't vote for all kinds of things, wouldn't at least consider voting for all kinds of things if we were assured, if we really were certain, if we could see the future and predict with a high degree of certainty that if we voted for x, y, or z, whether it is Ukraine funding or something else, that the border would be secure and that it wouldn't be secure if we didn't vote for that thing.

But I don't know how I can look my constituents in the face and tell them: Yes, we have got to spend this additional money here in order to get new laws so that President Biden can now enforce the border when I know full well and many of them know full well that he could enforce the border now if he chose to do so.

So I struggle with the premise of this at the outset, and I think it does send the wrong message. But the wrong message is only the beginning of my concern with this. The next step: We have got language that has been under negotiation I believe since October. October, November, December, and we are most of the way through the month of January. So we are like 4 months into this thing, into this negotiation. Yet we still have yet to see legislative text. It is a little frustrating.

But what little we do know about it, what little we have been told, what little we have been allowed to see—I mean, I feel like a character in “*Oliver Twist*,” asking, “Please, sir, may I have some more?” when I am told just crumbs of details about what is in this legislation.

What we do know is a little concerning; I will be honest. So we have the asylum problem. We have the parole problem. As far as I can tell, there

is no agreement at all. There is not even hope of an agreement on the immigration parole issues, such that we would shut down the 700,000 or so people who were unlawfully brought in under parole authority in the last year alone. From my understanding, there is no agreement at all that would shut that down.

And what discussions have occurred around parole deal with custodial parole issues, involving some of these illegal immigrants, which is different than the immigration parole provisions that we are describing. It doesn't deal with that.

It does, apparently, tighten the asylum standards in ways that I am told will be helpful but in ways that I have yet to be able to evaluate because I haven't seen the text of the language. It tightens the asylum standard. That might prove to be a nice thing to have. I don't dispute that.

But is that what is going to make the difference between the utter defiant nonenforcement of our border and the laws that govern our border and the admissibility of individuals outside of the United States who want to come into the United States? No. No, it doesn't because it remains the case today that asylum is a permissive grant of authority to the Secretary of Homeland Security and not a right—not a right on the part of any individual.

And when the system is overwhelmed, the proper remedy should, in fact, be: You are not coming in. We are shutting this down. I, the Secretary of Homeland Security, am declining to grant or process any more asylum applications until we can get this under control. So it is shut down.

That leads me to another feature that we have been told just a little bit about as to the new proposal: that it creates a new authority whereby the President and the Homeland Security Secretary can just shut down illegal crossings along the southern border; that they can do it, if they choose, once we have 4,000 migrant crossing encounters per day. And they shall do it once we have at least 5,000 migrant crossing encounters per day.

It sounds intriguing. I really want to see this language. There are a thousand different ways that could be written. And that, too, could be helpful, but there are things about it that also scare me to death—things that, if they are written just a little bit wrong, could actually make matters worse. Let me explain.

Let's suppose, for example, maybe—just maybe—this is written in such a way as to say that, once we have reached 5,000 migrant encounters per day, the requirement is perhaps—I don't know this; again, I am having to speculate because they won't share the language with me or with anyone else—we will not process any more asylum applications once we have more than 5,000 migrant encounters per day.

Let's suppose that that is what it says. If that is what it says—and that

is a change compared to existing law—that would seem, perhaps, a change in the assumption—not just the assumption but the reality—that this is a permissive grant of authority. And once you say, “You may shut that down only after you have reached that level,” then, at that point, you have changed the “may-shall” nature of asylum, and the government is not required to stop processing them, if that is how it is written, until we achieve that “5,000 migrant encounter per day” number.

By the way, that is a lot of people. That is a lot of people. A lot of people live in communities that are a fraction of that size, cities or towns that are smaller than that. And when you multiply 5,000 people by 365 days, it comes up to 1.825 million people a year. That is a lot of people. Is this just resetting the norm, saying that, until that point, it is not really a problem? I don't know because I can't see the text, but it certainly could mean that.

And, by the way, even once this authority kicks in—this authority to supposedly shut down the border in whatever capacity, whether through asylum, parole, or whatever other means they throw in there—they limit the number of days in which that can remain in effect.

I believe the authority, as it was explained to me, would apply for up to 14 consecutive days. And what, then they have to reopen it, regardless of whether the number of migrant encounters has dipped meaningfully? I don't know. But it gets even worse than that.

They set a maximum number of days in every year that the border can remain shut down, under whatever weird instruction they have adopted. Initially, I am told, it is 275 days per year. That is at the end. At that point, let's suppose you have made it through 275 days total in a particular year of the border being “shut down,” not being able to process more asylum applications or parole, or exercise parole authority or whatever it is. But on the 276th day, all the way through the end of day 365, it is immigration Mardi Gras. It is a carnival ride. It is everybody onboard the fun train; this is going to be great. And the cartels are going to make even more money.

And they say: Well, the cartels won't put up with that.

Nonsense, the cartels are sophisticated enterprises that make tens of billions of dollars a year just on Joe Biden alone. You are telling me they are not going to counter around this thing to make even more money? I have a bridge to sell you if you think they are not.

It gets even worse than that. You see, 275 days per year is only the limit in year one. From there, it ratchets down. By the second or third year, it ratchets down to a maximum of 180 days a year that the border can be deemed shut down under this new authority.

Why in the Sam Hill would we agree to that? Why would we do that? Why

would you want to limit to less than half of the total number of days in a year, regardless of what is happening along the southern border, the time in which that border authority can be deemed shut down? I don't understand it. And it gets even worse than that.

With regard to parole authority, the number "180" appears, apparently, in this legislation not once but twice—once in the one that I just mentioned, a maximum of 180 days that the border can be shut down under this new authority that, apparently, allows them to stop processing asylum applications, which they already have the power to do, but it appears a second time. You see, currently, there is a 180-day wait between the time an asylum application is processed and then given a plane ticket to the destination of their choice in the United States. On the plane, they can board without providing any documentation of their identity—not even a driver's license from their home country. They just get onboard. There is a 180-day wait from the time that they board that plane until the moment they receive their work permit, which they really shouldn't have because we shouldn't be processing them and letting them in unless or until such time as they have been deemed eligible for asylum and granted asylum—but whatever.

They are at least given this 180-day mandatory wait period under current practice. They get rid of that in this proposal—no 180-day wait. You show up, and, as long as you are not in one of those 180 days of the year when it is going to be shut down, we will get you processed, and we will send you away from that detention facility, before you board the plane, with your work permit already in hand.

This is nuts—absolutely nuts.

Now, look, I have great respect for my colleagues who are trying in good faith to work through this. I love my colleague, the senior Senator from Oklahoma, Senator LANKFORD. He is one of my favorite people, not just in the Senate but one of my favorite people, period. I know he is doing the best job he can, and he is working under strict orders, not of his own choosing. I have deep respect for him, and that remains despite any differences we may end up having on how we vote on this legislation.

Nonetheless, I don't understand. I don't understand, in part, because they haven't been willing to share the text with me when I ask why we can't see the text. It is typically something we do because we make laws here. That is our job. We make laws. Laws consist of words. Words have meaning. We need to see the words well in advance of the time when we plan to pass them. But when I have asked for legislative text on this one, I am told: Well, it is not all in one place. It is in lots of different documents.

Well, that is fine. Look, for many years, as a lawyer, I was constantly dealing with documents that we were

putting together that contained input for many, many lawyers. And I had to deal with 5, 10, 15 different documents at one time and try to synthesize them all. I can handle that. Everyone here can. Those who have practiced law or engaged in some other occupation have had training that allows us to read and understand things. And we have smart people who work for us who can help us put it all together. But, no, we still can't see it.

So, anyway, my point is, I have great respect for Senator LANKFORD, and I absolutely love the guy. But I have deep concerns with what little I know about this, and this is all I have to go on.

I hope he can understand my frustration with the process that tells me I can't see it, even though I know darn well the day is going to come when, if they get a deal, we may not have much time to review this thing—it happens from time to time—when the law firm of SCHUMER, MCCONNELL, JOHNSON, and JEFFRIES, as it is currently comprised, spits out legislation, and we are given hours, or maybe a couple of days, to read it.

That is not cool. It happens all the time with spending legislation. It shouldn't. It is a barbaric practice. It is exactly why we are \$34 trillion in debt. It should never happen when we are dealing with something as fundamental to our safety and security as this legislation.

To put it in context, the last time we undertook a major border security or immigration law overhaul, about a decade ago, we had that pending before the Senate Judiciary Committee in markup for an entire month. A Judiciary Committee markup usually takes an hour or 2, sometimes 3 or 4, for a really long one. This one took a month because this stuff is really complicated. And so it is staggering to me that they would even consider rushing this through if and when they have a deal.

Other things that concern me within what little we know about the legislation: I am told that there will be 50,000 additional new immigrant visas granted in this provision and then an additional number of people—some have estimated in the tens of thousands and others have estimated in the hundreds of thousands—of work permits that will be issued, attached to other nonpermanent visa holders who are members of the nonpermanent visa holders' family, who are adults but not authorized to work. This would allow them to work. Some may have concerns with that.

I remember, over the years, one of the many things that I have tried to fix in the immigration system. It has long been my belief that you can fix our immigration code best if you target each particular issue as narrowly as possible and don't load everything up all in one bill or else the thing is going to fail.

I have tried for many years to end a discriminatory provision in our immigration laws that is strongly biased

against people born in heavily populated countries, like India, for example. If you have two immigrants who were eligible for an immigrant visa, whether work-based or otherwise—but, for the work-based immigrant visas, you have two people equally eligible for a visa. One was born in Luxembourg and the other in India. The person born in Luxembourg, just by virtue of the fact that that immigrant came from a small country, with a small population, might have that visa application processed and be in the United States in under a year. The person from India might be on a waiting list for 80 years simply because of this discriminatory feature put in place, most likely for racist reasons many decades ago, to keep certain people that perhaps race-minded lawmakers—the racist lawmakers at the time—might have considered undesirable. I have been trying to fix that for a long time.

We finally passed something out of the Senate a couple of years ago that fixed this. It was a miracle. It took forever to get this done. I have been working on it for about a decade. It should have been a real layup to pass in the House because there were 350 cosponsors of the same legislation in the House, and they couldn't and wouldn't get it done.

Anyway, I bring all that up to say that we moved Heaven and Earth to get that fixed without adding a single new visa—not a single new visa—to the visas allocated under existing law. Why? Because a lot of people were opposed to that.

I was falsely accused at the time by people who misinterpreted it as granting all kinds of new visas. It didn't grant a single visa because we knew that would be very controversial. But to add 50,000 immigrant visas and perhaps tens to hundreds of thousands of additional work permits on top of that is not going to be noncontroversial.

You add to all of that the fundamental fact that Joe Biden could end this border security crisis right now. He could do it.

First, stop taking down the barrier in Texas. You are embarrassing yourself, and you are endangering our country. Don't do that. You know better. Shame on you, sir.

Secondly, after he does that, he could and he should restore the migrant protection protocol, the "Remain in Mexico" program. This was in place the day Joe Biden was sworn into office back in January of 2021. It was doing great. President Trump handed over the cleanest border we have had in many decades to Joe Biden, and he messed it all up with the stroke of a pen. He backed out of the "Remain in Mexico" program. He canceled it. He was later ordered to reinstate it after lengthy litigation concluded that he acted unlawfully in getting rid of it. He continued to drag his feet. To this day, he hasn't done it. He could do it. He won't, but he should. I ask him to reconsider today.



The fact that he is not doing this indicates that he and those who stand with him in this body are not acting in good faith. They are not negotiating in good faith. They cannot—must not—be deemed to be good-faith negotiators on this issue. Why? Because he refuses to enforce the laws that he has.

If for the sake of tightening some language here or there in yet-to-be-seen, yet-to-be-understood ways—in ways some have described as ambiguous and uncertain—if that is the primary thing we are getting, is the tightening of the asylum standard, but we might also be limiting the ability of the current or a future President to halt the abuse of asylum and parole, then we can't do this. We shouldn't be doing this at all. It sends the wrong message.

Look, the bottom line is this: I think we are back to the point where maybe we ought to just try to pass these separately. If you can get Ukraine supplemental aid passed, fine. Go at it. If you can somehow come up with a deal that actually closes the border security gaps and actually forces the President's hand and places some accountability on him, then I will consider that, too. I may even vote for it if it does the job, notwithstanding the fact I have concerns about sending another \$62 billion to a country where we have already spent \$113 billion—\$900 per U.S. taxpayer. But I would consider it if it actually fixed the problem.

I think there are ways to do it. One good way to start as a starting point is to take border security language already passed by the House of Representatives. I know people have said: Well, that can't pass here. Well, we don't know that because we never tried attaching that to other legislation, like the Ukraine-Israel supplemental aid package. Then add to that border security measures that would tie the expenditure of this \$62 billion that is supposed to go to Ukraine—tie the release of that in phased packages over the next year—or whatever the increment is—to the achievement of certain border security metrics, goals. They can bring that down to what they themselves have said is tolerable.

I believe the Border Patrol has said they maxed out when they get about 500 daily migrant encounters. If we could reduce it down to that and the administration starts enforcing the law and actually starts refusing to let people in after they can no longer process them and reinstates the migrate protection protocols—the “Remain in Mexico” program—that will help bring this down to less than 500 migrant encounters per day. If you phased the release of the Ukraine funding under the legislation that way, then Members of both parties could have some assurance that this might make a difference.

But, alas, there is no provision in this, no provision being negotiated. It is stunning to me that there isn't. There should be. The reason I say that is because we have had countless con-

versations within the Senate Republican conference where Member after Member after Member will propose something like that.

My friend and colleague, the senior Senator from North Dakota, JOHN HOEVEN, is one of the first to raise the idea and has been among the most impassioned advocates for it, saying: Let's tie the Ukraine funding to the achievement of certain border security metrics and other border security measures we might add to it. That will give everybody the confidence that we need that this will make an actual difference.

I believe he was the first one to suggest it. He has probably made that argument as often as or more often than any other Member of the conference, but he is not alone. I think I have heard dozens of Republican Senators say something similar. It is true. I have heard maybe one or two—three at the most—Republican Senators express reservations with that, but many multiples of that speak out, saying: Yes, this would be a good thing. Yes, this could bring a lot of us on board.

Yet, regrettably, my friend from Oklahoma was instructed not to even seek that. Why? Why do that? If we can't even tie the expenditure of the Ukraine funds, which we know the administration cares about dearly for reasons I cannot comprehend. He cares so much more about Ukraine's border security than ours. I understand his desire to stop Vladimir Putin. Vladimir Putin is a bad guy.

I wish he would recognize, by the way, the things we could do with energy policy that might help in that direction. If the United States had been exporting this whole time large quantities of LNG, maybe that would help, because Russia is funding this war and so many other things through its hegemony of the European energy market. There are all sorts of things we could do to help him.

He remains concerned about this and wants to spend more and more money on military aid to Ukraine. But if he really cares as much as he does about Ukraine and he wants to get that funding done, I strongly advise him to consider an option like what I just described.

Let us tie the release of the Ukraine funding. Let it be rolled out in staggered phases as the Biden administration achieves certain border security metrics and restores confidence—the confidence not just of Members of the Senate and the House but of the American people. I think that might work.

If something like that gets packaged right and contains the right reforms, it might even get my vote. I am not somebody who is eager to vote for that, but I really want to secure the border because America is a less safe place every day Joe Biden continues to enrich drug cartels and subject women and children to sex slavery and indentured servitude.

We have a duty here to make sure we pass good laws and to make sure those

laws are enforced as they are supposed to be. When they don't enforce them, we shouldn't reward them by funding every pet project that the incumbent administration deems important. Sometimes we need to insist that they do their jobs. If we reward bad behavior, we are going to get more bad things, and it will be dangerous for the American people.

I believe in this country. I believe in the American dream. That dream is becoming more distant every day lawlessness prevails. We can restore it. We can recapture it. But we do have to insist that our border be secure. It is not. May we make it secure once again is my entire endeavor in giving these remarks tonight.

I yield the floor.

The PRESIDING OFFICER (Ms. HASSAN). The majority leader.

## LEGISLATIVE SESSION

### MORNING BUSINESS

Mr. SCHUMER. Madam President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

### TRIBUTE TO PASTOR CHRIS HARRIS

Mr. DURBIN. Madam President, during this week when we remember the staggering number of loved ones we have lost to gun violence, I want to acknowledge a spiritual and community leader who is working to end the terrible cycle of gun violence in Chicago.

Pastor Chris Harris is pastor of Bright Star Church in Chicago's storied Bronzeville neighborhood and senior pastor of St. James Church in the City's historic Roseland-West Pullman community. He is a leader of creative vision, compassion, and action. And when it comes to ending gun violence, Pastor Harris has no time for hand-wringing or finger-pointing or political scapegoating.

One of his frequent admonitions is: “Say nothing about violence and trauma until you do something about violence and trauma.” As one of the most passionate and charismatic leaders in our community, both his words and his actions have helped to turn lives around. Fifteen years ago, Pastor Harris founded a nonprofit organization called Bright Star Community Outreach.

Its purpose is not simply to help heal victims of gun violence, but to prevent gun violence by treating its deep and often complex causes, including poverty, lack of opportunity, despair, and trauma. Bright Star Community Outreach does this by offering a myriad of services, from afterschool programs to job counseling, financial literacy classes, and workshops on homebuying and